REMARKS

This is in response to the Official Action marked November 29, 2004 which has been made final by the Examiner.

The Office Action notes claims 1-19 are pending in the application and that claims 5, 6 and 18 have been withdrawn from consideration pursuant to the Office Action of June 8, 2004. Applicant's representative notes that Office Action marked November 29, 2004 indicates that claim 1 has also been withdrawn from consideration (see Office Action Summary), however no withdrawal of claim 1 is indicated in any previous action. Rather, as indicated in the Office Action of June 8, 2004, claims 5, 6, 12 and 18 have been withdrawn. Moreover, the present Office Action applies rejections under 35 U.S.C. § 102(b) to claim 1. Thus, Applicant believes claim 1 to be pending in the instant application and addresses the 35 U.S.C. § 102(b) rejection to claim 1 as set forth below.

Claim 8 is hereby cancelled in the instant response, thus no response to the rejection under 35 U.S.C. § 103(a) is required.

Applicant's newly appointed representative appreciated the opportunity to discuss the proposed amendments with the Examiner on May 16, 2005, wherein the Examiner indicated that the proposed amendments appear to make the claimed invention novel and inventive over the sole remaining prior art patent reference of record, Johnson, U.S. Patent No. 3,949,510. A duplicate copy of the substitute Power of Attorney is enclosed herewith.

No new subject matter has been added by way of these amendments. Furthermore, no new issues are raised for consideration either as these amendments are reflective of grammatical and/or typographical errors which have been corrected.

Rejections under 35 U.S.C. § 102

On page 2 of the Office Action, the Examiner rejected claims 1-4, 7, 9-11, 13-17 and 19 under 35 U.S.C. § 102(b) as being anticipated by Johnson (3,949,510). Applicant respectfully traverses this rejection.

Johnson discloses a device for retrieving minnows having a handle long enough to extend from the bottom of a bucket completely through the water and to project above the upper surface of the water so that it can be grasped without getting one's hands wet, that includes a tubular trap ***pivotally*** connected to one end of the handle. The device of Johnson is characterized by a pivotal connection between the handle 2 and trap 4 formed by spreading the arms 8 of the handle 2 slightly and then inserting the tubular trap 4 between the spread apart arms 8 with the sockets 20 in the sidewall 14 of the trap 4 being aligned with the trunnions 10.

Applicant respectfully asserts that independent claim 1 of the application is patentably distinguishable over the Johnson reference. In order for a reference to anticipate a claim, the reference must teach every element of the claim. In the instant application, claim 1, as amended, recites:

1. A device for catching fish comprising a handle and a body wherein the body is a tube having a first end and a second end so that the first end has an opening that allows a fish to swim into the tube and a second end that prevents the fish from swimming through the tube and wherein the handle is non-movably connected to the body along an outer surface of the body.

Johnson does not anticipate claims 1-4, 7, 9-11, 13-17 and 19 because it does not show the use of device for catching fish including a "handle [that] is non-movably connected to the body" and "connected to the body along an outer surface of the body." Rather, Johnson discloses using a minnow trap that rotates via a pivotal connection between the sockets 20 in the

sidewall 14 of the trap 4 and trunnions 10 of the arms 8 of the handle 2, where the trap 4 is rotated to a vertical position from a horizontal position as the trap is raised. There is no disclosure to use a handle that is non-movably connected to the body along an outer surface of the body. Therefore, Johnson does not anticipate claims 1-4, 7, 9-11, 13-17 and 19.

Further, Johnson does not render the present claims 1-4, 7, 9-11, 13-17 and 19 obvious because it teaches away from the claimed invention. The claims of the instant application recite a handle that is non-movably connected to the body along an outer surface of the body. Thus, Johnson's disclosure of a pivotal connection between the handle 2 and trap 4 formed by spreading the arms 8 of the handle 2 slightly and then inserting the tubular trap 4 between the spread apart arms 8 with the sockets 20 in the sidewall 14 of the trap 4 being aligned with the trunnions 10 is contrary to the claimed invention. Applicant's invention, as illustrated in Figures 1 and 3 of the present invention, discloses a fish catcher quite different from the device for retrieving minnows discussed in Johnson.

Similarly, with respect to Figures 2 and 3, Johnson discloses a pivotal connection between the handle 2 and trap 4 formed by spreading the arms 8 of the handle 2 and then inserting the tubular trap 4 between the spread apart arms 8 with the sockets 20 in the sidewall 14 of the trap 4 being aligned with the trunnions 10. Again, the device for retrieving minnows of Johnson cannot be arranged into the fish catcher of Applicant's invention. Again, the fish catcher illustrated in Figures 1 and 3 of the present invention discloses a fish catcher quite different from the device for retrieving minnows discussed in Johnson.

Therefore, since Johnson fails to teach or disclose the use of a handle that is non-movably connected to the body along an outer surface of the body, Applicant respectfully submits Johnson does not anticipate or render obvious any of the pending claims. Accordingly, claims 1-

4, 7, 9-11, 13-17 and 19 are allowable in view of this reference and Applicant respectfully requests a withdrawal of this rejection.

Conclusion

In view of the foregoing, it is submitted that, as amended, each of the remaining claims 1-4, 7, 9-11, 13-17 and 19 are now in condition for allowance and the allowance thereof is respectfully requested. The Notice of Allowance is respectfully requested to be issued.

Should any further minor objections arise or need to be attended to, the Examiner is invited to contact the undersigned attorney to discuss the matters in an effort to successfully complete the prosecution of this application.

Respectfully Submitted,

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I hereby certify that this paper is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 5/25/05

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